



Takeovers Code (The Todd Corporation Limited) Exemption Notice 2002

Pursuant to section 45 of the Takeovers Act 1993, the Takeovers Panel gives the following notice (to which is appended a statement of reasons of the Takeovers Panel).

Contents

1	Title	4	Interpretation
2	Commencement	5	Exemption
3	Expiry	6	Conditions

Notice

1 Title

This notice is the Takeovers Code (The Todd Corporation Limited) Exemption Notice 2002.

2 Commencement

This notice comes into force on 1 June 2002.

3 Expiry

This notice expires on 31 May 2004.

4 Interpretation

(1) In this notice, unless the context otherwise requires,—

Act means the Takeovers Act 1993

Code means the Takeovers Code approved by the Takeovers Code Approval Order 2000 (SR 2000/210)

constitution means the constitution of The Todd Corporation as in force at 1 June 2002

control percentage means the percentage of voting rights in The Todd Corporation that a person holds or controls

exemption resolution means a resolution of the Todd Corporation shareholders supporting the exemption granted in this notice

meeting means the meeting of the Todd Corporation shareholders to be held to consider and vote on the exemption resolution

The Todd Corporation means The Todd Corporation Limited

Todd Corporation shareholders means the persons recorded on The Todd Corporation share register as holders of shares in The Todd Corporation.

- (2) Any term or expression that is defined in the Act or the Code and used, but not defined, in this notice has the same meaning as in the Act or the Code.

5 Exemption

Every person is exempted from rule 6(1) of the Code in respect of any increase in that person's control percentage in The Todd Corporation that arises from a transfer of shares in The Todd Corporation effected under clause 14.1 of the constitution.

6 Conditions

The exemption is subject to the conditions that—

- (a) The Todd Corporation distributes the notice of meeting containing the exemption resolution to the Todd Corporation shareholders in a form approved by the Panel; and
- (b) the Todd Corporation shareholders, at the meeting, pass the exemption resolution by both—
 - (i) a 75% majority of the total voting rights in The Todd Corporation; and
 - (ii) a 50% majority by number of those shareholders entitled to vote and voting on the resolution at the meeting (whether voting in person or by proxy); and
- (c) the maximum number of voting securities that may be transferred under clause 14.1 of the constitution in any

12-month period is voting securities that carry in the aggregate not more than 10% of the total voting rights in The Todd Corporation at the commencement of the 12-month period.

Dated at Auckland this 14th day of May 2002.

The Common Seal of the Takeovers Panel was affixed in the presence of:

[L.S.]

J. C. King,
Chairperson.

Statement of reasons of Takeovers Panel

This notice, which comes into force on 1 June 2002 and expires on 31 May 2004, exempts any person, subject to certain conditions, from complying with rule 6(1) of the Code in respect of any increase in their control percentage of The Todd Corporation that arises as a result of a transfer of shares effected under clause 14.1 of the constitution of The Todd Corporation as that constitution was on 1 June 2002.

All the recipients of transfers under clause 14.1 of the constitution of The Todd Corporation are members of a single extended family or represent interests associated with that single extended family (**inter-family transfers**). Due to the family relationship, it is arguable that all shareholders of The Todd Corporation of that single extended family are associates as that term is used in the Code. Without this exemption, inter-family transfers would be impracticable.

Inter-family transfers are not intended to involve transfers that impact on control, but allow the transfer of shares between family interests.

The Panel has put in place restrictions on the transfer of shares that may take place in any 12-month period to limit the possibility of a change of control occurring without using 1 of the mechanisms of the Code.

The Panel considers that the granting of this class exemption is appropriate because—

- all the recipients of transfers under clause 14.1 of The Todd Corporation's constitution are members of a single extended family, or represent interests associated with that single extended family, and therefore are all probably associates for the purposes of the Code. As such, the mechanisms provided in the Code for approval of increased shareholdings through transfers of shares are unworkable:
- the transactions covered by the exemption are confined to clause 14.1 of The Todd Corporation's constitution, the principal purpose of which is to facilitate transfers of shares between family interests:
- there are restrictions on the transfer of shares that may take place in any 12-month period to limit the possibility of a change of control occurring without using the mechanisms of the Code.

The Panel considers that the granting of this class exemption is consistent with the objectives of the Code for the following reasons:

- it retains all the requirements of the Code except in relation to inter-family transactions in limited circumstances:
- shareholders of The Todd Corporation approve the exemption, by substantial majority and on the basis of a notice of meeting that is satisfactory to the Panel:
- it avoids unnecessary compliance costs that would be incurred if the exemption were not granted.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 16 May 2002.

This notice is administered by the Takeovers Panel.
